

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

)
The Berkshire Gas Company)
Service Quality Plan)

D.T.E. 99-84

**COMMENTS OF THE MASSACHUSETTS DIVISION OF ENERGY RESOURCES,
AND
ASSOCIATED INDUSTRIES OF MASSACHUSETTS**

Introduction

On July 17, 2001, the Berkshire Gas Company (the “Company”) filed a Petition for a general rate increase pursuant to G.L. c. 164 ? 94, docketed as DTE 01-56. On January 31, 2002, the Department of Telecommunications and Energy (the “Department”) issued its Order in DTE 01-56 (the “Order”). The Order found that the Company submitted a Service Quality Plan in September, 2001 in DTE 01-56, the Service Quality Plan being Exh. DOER 1-4.¹ The Order also directed that the Department would “[I]nvestigate the Company’s service quality plan in Investigation of the Department of Telecommunications and Energy on its own motion to Establish Guidelines for Service Quality, D.T.E. 99-84 (2001) (the “June 29th Order”).”²

The following comments address: (1) the Department’s statutory authority to require and implement service quality plans as an integral component of performance-based

1 DTE 01-56; Investigation of the Department of Telecommunications and Energy on its own motion as to the propriety of the rates and charges set forth in the following tariffs: M.D.T.E. Nos. 280 through 305, filed with the Department on July 17, 2001 by The Berkshire Gas Company (2002), pg. 2, footnote 2.

2 . Ibid. at pages 2 – 3, footnote 2.

ratemaking (“PBR”) proposals and (2) the significant deficiencies in the Company’s Service Quality Plan.

The Department Has Broad Statutory Authority to Establish and Implement Service Quality Plans Within a c. 164, Section 94 Proceeding

G.L. c. 164, §1E (a) authorizes to the Department to establish and require performance-based rates for distribution companies doing business in Massachusetts. With respect to service quality standards in the context of PBR plans, c. 164, §1E (a) prescribes that the Department establish service quality standards if it chooses to implement PBR mechanisms.³ In essence, G.L. c. 164, §1E requires that a service quality component be an integral part of PBR schemes approved by the Department. The January 31, 2002 Order in DTE 01-56 allows the Company to implement its PBR proposal. By so doing, the Company is obligated to implement a service quality plan that complies with the Department’s requirements and guidelines, as set forth in the June 29th Order.

Commencing in 1999, the Department conducted a rulemaking proceeding; DTE. 99-84; to establish service quality standards. The June 29th Order issued in this proceeding requires that all electric and gas distribution companies filing for a general rate

3 Section 1E. (a) *The department is hereby authorized to promulgate rules and regulations to establish and require performance based rates for each distribution, transmission, and gas company organized and doing business in the commonwealth pursuant to the provisions of this chapter. In promulgating such performance based rate schemes, the department shall establish service quality standards each distribution, transmission, and gas company, including, but not limited to, standards for customer satisfaction service outages, distribution facility upgrades, repairs and maintenance, telephone service, billing service, and public safety provided, however, that such service quality standards shall include benchmarks for employee staff levels and employee training programs for each such distribution, transmission, and gas company. (emphasis added)*

increase pursuant to G.L. c. 164, § 94 to file a PBR plan with a service quality component (June 29th Order at 41).

The June 29th Order also established two requirements with which, in the context of a petition for a general rate increase, a company must comply. First, the company must file a PBR plan. Second, the PBR plan must include a service quality component containing the service quality measures prescribed by the June 29th Order or an alternative service quality component adequately supported by the filing. It should be noted that the June 29th Order only requires the PBR plan to contain the service quality measures as set forth therein. This distinction is significant.

The June 29th Order established Final Guidelines for the entire service quality component of a PBR plan, which includes service quality measures, performance benchmarks, and revenue penalties. The measures are **objective**, generic, service quality categories/activities that each distribution company must address and may be incorporated by reference in a company-specific plan.

However, the performance benchmarks and penalties developed by the Department are not generic; they can not be incorporated by reference in a company- specific plan. The performance benchmarks and penalties are **objective formulae** that are to be applied by all distribution companies in calculating the **subjective**, company-specific performance benchmarks and penalties.⁴ To calculate performance benchmarks, a company applies company-specific data to the objective formulae, thereby deriving the performance

⁴ The Odor Calls benchmarks and penalties are an exception to this rule. It should also be noted that penalty dead-band and assessment of application of maximum objective penalty (2%) standards are also qualifications to the subjective nature of the penalty component.

benchmarks applicable to that company's service quality plan. The company's specific performance data is then assessed relative to the performance benchmarks to determine company-specific revenue penalties.

The Department Has the Authority to Modify Proposed Rate Petitions

G.L. c. 164, §94 authorizes the Department to prescribe substantive changes to rate petitions, as follows:

“Gas and electric companies shall file with the department schedules, *in such form as the department shall from time to time prescribe, showing all rates, prices, and charges to be thereafter charged or collected within the commonwealth for the sale and distribution of gas or electricity, together with all forms of contracts thereafter to be used in connection therewith.*”
(emphasis added)

The use of the modifier, “*as the department shall from time to time prescribe,*” provides that the form with which §94 petitions must comply is dynamic and may be modified by the Department. This provides the flexibility required to accommodate implementation of new policies relative to electric and gas distribution company rate regulation. The Department exercised this authority with respect to the substantive form of rate schedules filed in §94 petitions by requiring all companies filing for a general rate increase to include a PBR plan with a service quality component.

The substantive requirements of the June 29th Order modified the form of §94 petitions by expanding the definition of “rates” in the context of §94.⁵ The Company's

⁵ The term “rates” is not specifically defined in the context of Section 94. Rates, or base rate, means computing the company's base revenue requirement plus an equalized rate of return. Once the base is

proposed PBR plan; its platform for rate design; incorporates, as required by G.L. c. 164, ? 1E DTE 99-84, a service quality component as a quantitative variable for adjusting rates over the term of the PBR Plan. The PBR plan, with its service quality component, is integral to the “rates” as that term is used in §94.⁶

The Company’s Plan is Substantively Deficient in its Measures of Service Quality and Provisions for Benchmarks and Penalties

The Department determined, in DTE 01-56, that the Company had submitted a Service Quality Plan in September 2001, identified in the course of the rate proceeding as “Exh. DOER 1-4.” That Service Quality Plan failed to address four of the seven measures of service quality: (1) service appointments met as scheduled, (2) on-cycle meter readings, (3) DTE consumer division cases, and (4) billing adjustments. Of the three measures of service quality addressed, complete (minimum of three years) data was provided for only one measure of service quality: lost work time accident rate. The Company initially provided less than two years worth of data for the telephone service factor and the on-cycle meter readings measures.⁷ The Company’s Service Quality Plan is also substantively deficient in that it fails to provide performance benchmarks or revenue penalties for six of the seven measures of service quality.⁸

computed, a PBR Plan establishes a pricing mechanism to adjust rates up and down for inflation, +/- exogenous costs, and +/- service quality penalties over the term of the plan.

6 The rates would not exist without the PBR plan, and, as all distribution companies have been directed by the Department to file a PBR plan, companies do not have the option of basing proposed rates on any other premise.

7 While the Company did in fact provide additional data during the course of the rate proceeding, it maintained that the data was not reliable and that the Company did not wish to use it. When questioned directly by DTE staff, the Company stated it would use the data if so directed by the Department.

8 The benchmarks and penalties for response to odor calls for all local distribution companies were

The Service Quality Guidelines established in the June 29th Order in this docket specifically require that local gas distribution companies address the seven measures of service quality set forth above (Final Guidelines, pages 5 – 9), establish performance benchmarks (Final Guidelines, page 4), establish revenue penalties (Final Guidelines, pages 9 – 12),⁹ and provide annual reports to the Department.¹⁰ The Company's Service Quality Plan does not meet these requirements.

Conclusion

DOER and Associated Industries of Massachusetts recommend that, beginning with the thirty-one month rate freeze approved by the Department in the January 31, 2002 Order in DTE 01-56, the Department require the Company to:

- (1) revise its Service Quality Plan to fully and completely address all seven service quality measures;
- (2) use the Company data gathered and reproduced during the course of the rate proceeding to establish benchmarks and penalties for the telephone service factor, service appointments met as scheduled, on-cycle meter readings, DTE Consumer Division cases, billing adjustments, and lost work time accident rate, such penalties to begin accruing simultaneously with the commencement of the thirty-one month rate freeze; and

prescribed by the Department in its June 29, 2001 Order in this docket.

9 On September 28, 2001, the Department issued DTE 99-84-B, clarifying aspects of the June 29th Order as related to penalty offsets and customer service guarantees. The Company's Service Quality Plan proposed to address these matters in its May 1st Price Cap Mechanism compliance filing. The Associated Industries of Massachusetts and DOER recommend, for consistency and expeditious review, that the Department treat these matters as it did the Service Quality Plan and address them in this docket as well.

10 The Attorney General and DOER agree with the Company's proposal in its Service Quality Plan (page 6) to address annual reporting requirements through its March 1st and May 1st filings in this docket.

(3) fully comply with the data-collection and reporting requirements prescribed by the Department in the June 29th Order.

Respectfully submitted,

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